



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

June 12, 1939

Honorable J. H. O'Neill
County Attorney
Swisher County
Tulia, Texas

Dear Sir:

Opinion No. Q-641

Re: What were the maximum salaries the commissioners could pay themselves for the years 1934, 1935, 1936, 1937, and 1938?

Your request for an opinion on the above-stated question has been received by this office.

We are informed by the Comptroller's office that the population of Swisher County was 7,343 inhabitants according to the last Federal census, and the assessed tax valuation in Swisher County is and has been between five and one-half million and six million dollars per year which is as follows:

1933	\$5,960,885.00
1934	\$5,899,705.00
1935	\$5,811,675.00
1936	\$5,803,705.00
1937	\$5,853,457.00
1938	\$5,898,575.00

Article 2350 reads in part as follows:

" . . . In counties having assessed valuation of more than Four Million Five Hundred Thousand and One Dollars (\$4,500,001) and less than Six Million Dollars (\$6,000,000) each commissioner shall receive Five Dollars (\$5.00) per day for each day served as commissioner, and a like amount when acting as ex-officio road superintendent in his Commissioner's Precinct, provided in no event shall his total compensation exceed Twelve Hundred Dollars (\$1200) in any one year."

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Article 2350 (1) reads as follows:

"The salary of each County Commissioner and each County Judge may be paid wholly out of the County General Fund, or, at the option of the Commissioners Court, may be paid out of the County General Fund and out of the Road and Bridge Fund in the following proportions: County Judge not to exceed seventy-five per cent (75%) of such salaries may be paid out of the Road and Bridge Fund, and the remainder out of the General Fund of the County, and each County Commissioner's salary may, at the discretion of the Commissioners Court, all be paid out of the Road and Bridge Fund; provided this Section shall not apply except in counties where the constitutional limit of twenty-five cents (25¢) on the One Hundred Dollars (\$100) is levied for general purposes."

The first called session of the Forty-Third Legislature passed House Bill No. 88, Chapter 83, which provides that:

"Except in all counties having an assessed valuation of more than Five Million Dollars (\$5,000,000) and less than Five Million Five Hundred Dollars (\$5,500,000) according to the last preceding tax roll, each commissioner shall receive an annual salary not to exceed Twelve Hundred Dollars (\$1200)."

The assessed valuation of Swisher County has been more than \$5,500,000 for each of the above mentioned years. House Bill No. 88, supra, became effective October 25, 1933. Chapter 216, Acts of the Forty-Third Legislature, Regular Session, provides that:

"The salary of the said commissioners shall be paid at least one-half out of the Road and Bridge Fund but not to exceed seventy-five (75%) per cent of said salary shall be paid out of said fund and remainder out of the General Fund of the County. . . ."

In view of the foregoing statutes, you are respectively advised that it is the opinion of this department that the maximum salaries for the members of the Commissioners' Court of Swisher County has been \$1,200 a year for the years 1934 to 1938, inclusive.

In answer to your second question, you are further advised that from January 1, 1934, to August 31, 1935, the Commissioners should have been paid at least one-half and not to exceed three-fourths of their salary from the Road and Bridge Fund and the re-

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mainder from the General Fund. From August 31, 1935, the effective date of Article 2350 (1), the Commissioners' Court could within their discretion pay all of their salaries out of the Road and Bridge Fund; provided, that Swisher County had levied the constitutional limit at twenty-five cents (25¢) on the One Hundred Dollars (\$100) valuation.

Trusting that the foregoing answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*
Ardell Williams
Assistant

AW:GO

APPROVED:

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

